

Florence, New Jersey 08518-2323
November 16, 2009

The regular meeting of the Florence Township Planning Board was held on the above referenced date at the municipal complex, 711 Broad Street, Florence, NJ. Chairperson Hamilton-Wood called the meeting to order at 7:30 p.m. followed by a salute to the flag.

Chairperson Hamilton-Wood then read the following statement: "I would like to announce that this meeting is being held in accordance with the provisions of the Open Public Meetings Act. Adequate notice has been given to the official newspapers and posted in the main hall of the municipal complex."

Upon roll call the following members were found to be present:

Mayor Bill Berry	Wayne Morris
Mildred Hamilton-Wood	Sean P. Ryan
Tim Lutz	David Woolston
Jim Molimock	Paul Ostrander (Alternate No. 1)

ABSENT: Frederick Wainwright (Alternate No. 2)

ALSO PRESENT: Solicitor David Frank
Engineer Dante Guzzi
Planner Joseph Petrongolo

RESOLUTIONS

Resolution PB-2009-27

Granting Minor Subdivision and continuing the application for Preliminary and Final Major Site Plan approval for property located at 290 Daniels Way, Block 158, Lot 1.

Motion of Woolston, seconded by Lutz to approve Resolution PB-2009-27.

Upon roll call the Board voted as follows:

YEAS: Berry, Lutz, Molimock, Morris, Woolston, Ostrander
NOES: None
ABSENT: Wainwright

Resolution PB-2009-28

Recommending that Council approve the report of the Board's Planner Joseph Petrongolo regarding boundaries of the proposed Route 130 Redevelopment Area.

Motion of Morris, seconded by Lutz to approve Resolution PB-2008-28.

Upon roll call the Board voted as follows:

YEAS: Berry, Lutz, Molimock, Woolston, Ostrander
NOES: None
ABSENT: Wainwright

MINUTES

Chairperson Hamilton-Wood stated that there had been a second draft of the Minutes from the regular meeting of October 19, 2009 and asked if any Board Member had any questions or comments regarding the Minutes. Council Representative Ryan asked for an overview of what the changes were. Solicitor Frank relayed to the Board that there were some minor changes made to the Minutes.

Motion of Lutz, seconded by Berry to approve the Minutes as submitted. Motion unanimously approved by all members present.

CORRESPONDENCE

- A. Letter from Taylor, Wiseman & Taylor dated October 19, 2009 regarding NFI Warehouse site Treatment Works Approval application.
- B. Letter from Burlington County Advocacy Team regarding recent bus tour of affordable homes in Burlington County.
- C. Township Council Resolution No. 2009-225 accepting recommendation of the Florence Township Planning Board regarding boundaries of proposed Route 130 Redevelopment Area.
- D. Letter from Thomas Sahol to Maria Corbett, Parish of Saints Francis and Clare dated November 10, 2009 regarding tree removal.

Chairperson Hamilton-Wood stated that she would like to discuss Correspondence D as part of Other Business. Motion of Woolston, seconded by Lutz to receive and file Correspondence A through D. Motion unanimously approved by all members present.

APPLICATIONS

Chairperson Hamilton-Wood called for Application PB#2009-08 for Craft Stewart, LLC (Estates at Oak Mills). Applicant is requesting an amendment to the Final Major Subdivision approval to permit development of the site to be completed in phases for property located at 1100 West Front Street, Block 156.01, Lot 2.

Member Woolston recused himself and left the dais.

Richard Hluchan, attorney for Craft Stewart, said that he was substituting for his partner Ed Penberthy who was not able to attend due to illness.

Attorney Hluchan stated that Craft Stewart had obtained final subdivision approval for this site in November of 2005. Subsequently an extension was granted on that approval until December of 2008 and the approval continues to be in effect by virtue of the Permit Extension Act. This approval will remain in effect until the end of 2010.

This site is a 150 acre site between Front, Summer and Fifth Streets in the RA Low Density Residential Zone. The Board had previously granted final subdivision to subdivide off an approximately 55 acre lot leaving 95 acres which would remain. On the 55 acre lot there is approval for 85 building lots and 4 open space lots. The present application is to amend that final subdivision approval to divide the project into 3 fairly equal phases.

Phase one is 17.7 acres and includes 28 residences, 3 open space areas and the pump station. Phase 2 is 18.3 acres and includes 28 residences and 1 open space area. Phase 3 is 19 acres and includes the balance of 29 residential units and 1 open space lot.

The proposal does not include any substantive changes to the already approved plan. None of the conditions will be changed.

Attorney Hluchan stated that in attendance this evening were Joseph Mancini from Taylor, Wiseman & Taylor and James Stewart from Craft Stewart. Mr. Mancini and Mr. Stewart were sworn in by Solicitor Frank.

Mr. Mancini stated that he had a Bachelor's degree in civil engineering from New Jersey Institute of Technology. He is a licensed professional engineer in the state of New Jersey. He stated that he has testified before many Planning and Zoning Boards in South Jersey. He stated that he has been practicing with Taylor Wiseman & Taylor for approximately 10 years and has been a licensed engineer for 5 years. Mr. Mancini was accepted as an expert in the field of civil engineering.

Chairperson Hamilton-Wood asked Engineer Guzzi to go over his review letter dated October 22, 2009. Engineer Guzzi stated that there were a few technical completeness items. This application is just an amendment but the Board should still rule on these items.

The following items were not submitted: Environmental Impact Statement, Drainage Area Map and Drainage Calculations, Test Borings to Water Table, Existing Elevations of Road every 25 Feet, and Municipal Services and Utilities Impact Statement. Engineer Guzzi said that since this application is merely for a phasing of the already approved subdivision he would support the requested waivers.

Motion of Berry, seconded by Lutz to grant the waivers and deem the application complete.

Chairperson Hamilton-Wood asked for a volunteer to act as secretary since Member Woolston was recused. Member Morris volunteered.

Upon roll call the Board voted as follows:

YEAS: Berry, Lutz, Molimock, Morris, Ryan, Ostrander, Hamilton-Wood
NOES: None
ABSENT: Wainwright

Engineer Guzzi stated that the first 2 comments on his review letter concern the status of approvals from outside agencies for this application that have expired. He said that he thought most were covered under the Permit Extension Act.

Attorney Hluchan stated that the New Jersey Department of Environmental Protection Treatment Works Approval and the New Jersey Department of Transportation Approval are both covered under the Permit Extension Act and will both be effective until December 31, 2010.

Engineer Guzzi said that Item 3 of his report outlines conditions of approval that remain outstanding from the 2005 approval. Attorney Hluchan stated that all the conditions of the previous approval remain in effect. Engineer Guzzi said that there was a condition that the roller hockey rink be constructed prior to the issuance of the first certificate of occupancy so this would have to be constructed in phase 1.

Engineer Guzzi said that Item 4 is comments regarding Sixth Street. He stated that he had the opportunity to sit down with the Applicant's engineer Ed Brady of Taylor Wiseman & Taylor and his understanding is that the applicant would revise the plans to satisfy these comments.

Mr. Mancini said that it should be noted with respect to letter B under Item 4 that a de minimus waiver for the minimum slope would be required. Engineer Guzzi said that the required minimum slope was 0.5%. Because of existing conditions on the one side of Sixth Street they will be a little less than this but they will construct concrete gutters along there to insure that they have positive drainage. There is more control with concrete than with asphalt.

Solicitor Frank asked if this was a de minimus waiver from RSIS that the Board didn't previously grant? Engineer Guzzi stated that this is improvement to a roadway that is outside of the development, but it was a condition of approval that the developer makes improvements to this road. The improvements were referenced in the approval but never detailed in the plan set that was approved. It was left for the developer to work that out with the township's engineer as far as what the improvements would be. This was submitted as part of this plan set.

Engineer Guzzi said that it might be safe to give a waiver from the township standard. He stated that the gutter curb on the developed side would not be monolithic because the curb is already there. The other side of the street would have a monolithic curb. The developer will be providing a concrete gutter in lieu of asphalt, which can be installed more precisely.

Engineer Guzzi stated that Item 5 is the rail crossing at Boulevard. This should be done in Phase 1. The applicant agreed to this. Engineer Guzzi said that Item 6 refers to the proposed construction and storage trailer. This is located in proposed Phase 2. Engineer Guzzi requested that the trailer be relocated to a spot closer to Phase 3 (proposed Lot 25) so that construction traffic isn't traveling through Phase 2 and Phase 1 to get to Phase 3 during construction. The other advantage to moving it is that adjacent to this proposed compound is where the tot lot is supposed to be. This way the tot lot can be constructed as part of Phase 2 and not be next to the construction storage trailer.

Attorney Hluchan said that he believed that Planner Petrongolo made the same comment and the applicant agreed to it.

Engineer Guzzi stated that the last comment on the review refers to outside agency approvals. He said that he believed that the applicant has all the approvals and by virtue of the Permit Extension Act they are all still valid.

Chairperson Hamilton-Wood asked Planner Petrongolo if he had any comments. Planner Petrongolo stated that he had had several conversations with Edward Brady at Taylor, Wiseman & Taylor regarding the review letter and Mr. Brady agreed to conform with everything stated in his review letter dated November 12, 2009 except the request to construct the tot lot as part of Phase 1. The applicant wants to do this as part of Phase 2. The applicant is doing the hockey court as part of Phase 1 so they are providing some recreation. Planner Petrongolo said that he is satisfied with this and is withdrawing his comment A2 regarding this issue.

Planner Petrongolo stated that one of the conditions of the prior approval was that 3 additional shade trees would be provided for each residential lot. The condition indicates that the species and location of these trees should be shown at this time. Mr. Brady requested that the plans note that the trees would be provided and have a list of appropriate species to be utilized but to allow the property owner when they purchase the lot to locate the trees on their parcel. Planner Petrongolo stated that he did not have a problem with this. Technically this would be a change to the condition of the approval but without building footprints it seems to be a reasonable request.

Mr. Mancini said that he would like to amend this slightly and allow the builder to specify the trees for each lot. Planner Petrongolo stated that he does not object to this.

Council Representative Ryan asked what would happen if the homeowner did not want the trees? Engineer Guzzi said that what they have done in the past if a homeowner

objected to having trees on the property the trees would be relocated to another appropriate place in the development.

Planner Petrongolo said that the applicant had indicated that they would conform to the remaining items in the letter.

Engineer Guzzi stated that there were 3 letters from the township. The first was from the police department. The first item is regarding the street sign color change from green to blue. The applicant agreed to this.

The second item refers to a little stub street leading off of Summer Street labeled as Eighth Street on the subdivision plan because it is an extension of Eighth Street but the police requested that it be renamed to avoid confusion on emergency calls since there is a break in Eighth Street. If the Board agreed to this the developer would then go before Council to request a new street name.

The third item refers to the one side “No Parking” due to the fact that the street is not wide enough for 2 sided parking. Buyers whose homes are on the “No Parking” side should be made aware of this so that they aren’t surprised when the “No Parking” signs are installed. This should be a condition of approval.

Engineer Guzzi stated that Dave Lebak, Director of Water and Sewer had a few comments regarding the water main stub. Engineer Guzzi stated Mr. Lebak suggested a stub of the water main to create a loop to service some of the houses. This would reduce the flushing requirements that the Water & Sewer Department has. The other issue is that with the phasing of the project the water main installation, filling and testing needs be addressed to ensure water quality. Also the sewer pump station details must be supplied. Engineer Guzzi stated that Mr. Brady had indicated that he had no problem with the proposed modifications.

Engineer Guzzi stated that the last review letter was a “No Comment” review from the Fire District.

Chairperson Hamilton-Wood asked for the projected time frame for completing all the phases. Mr. Stewart said that this development is market driven. He said that they would like to start Phase 1 in the spring of 2010. The remaining phases will depend on the market.

Chairperson Hamilton-Wood asked if starting Phase 1 maintains the site plan approval for Phases 2 & 3 indefinitely. Solicitor Frank said that in and of themselves a subdivision plan doesn’t expire. It has a period of protection from changes in ordinance standards. The fact that this application is back for revised approval indicates that they would have protection for Phase 1 but it is a reasonable conclusion that they have a specific approval for Phases 2 & 3 that are now independent of Phase 1. So the commencement of work vested in Phase 1 applies to Phase 1. Solicitor Frank stated that this is his opinion as Board solicitor.

Attorney Hluchan said that this is no different than any other substantial project if there is approval for 100 units and you only build 25 and the rest never get built, after a while those approvals begin to lose their efficacy and changes made to the zoning ordinance would apply. Chairperson Hamilton-Wood stated that her concern is with the tot lot and other improvements that were meant for the entire development but are not proposed to be completed as part of Phase 1. Mr. Stewart said that they would keep the construction of the tot lot in Phase 2, but they would bond it in Phase 1. He also said that a lot of the costs associated with the overall project are done in the beginning so the likelihood for success of the subsequent phases is much more because the improvements are all done.

Mayor Berry stated that he understood that this development is market driven but expressed his concern that this doesn't end up looking like an unfinished development. Mr. Stewart said that this would not be the case. The second and third phases would remain as open fields until the time that they are developed. The concept of phasing will help the project.

Council Representative Ryan asked if Mr. Stewart had seen any trends with marketability with single family homes versus the 55 and older age restricted communities? Mr. Stewart said that the market had changed and the 55 and older communities are very difficult sales. No builders want to talk about constructing a senior development these days. Mr. Stewart said that the average market price for the homes in this proposed development is \$325,000. This is a very good market and sales should be successful. He stated that the projects that are struggling are the projects that are in the \$500,000.

Motion of Ryan, seconded by Morris to open the hearing to public comment. Motion unanimously approved by all members present. Seeing no one wishing to comment motion was made by Berry, seconded by Ryan to close the public comment. Motion unanimously approved by all members present.

Motion of Berry, seconded by Lutz to approve Application PB#2009-08.

Upon roll call the Board voted as follows:

YEAS: Berry, Hamilton-Wood, Lutz, Molimock, Morris, Ryan, Ostrander
 NOES: None
 ABSENT: Wainwright

OTHER BUSINESS

Chairperson Hamilton-Wood stated that she would like to discuss Correspondence D from Tom Sahol to Maria Corbett regarding tree removal at the Parish of Saints Francis and Clare. She said that during the course of the site plan approval, which is the subject of that letter the Board dealt with individuals who represented themselves as being officials of the diocese. The individual who is now listed on this letter has not been party to any of the site plan approvals and was not in attendance at the hearings on the application. She stated that she is concerned that a new person is involved. She also

stated that she does not agree with the decision that was made. She asked what could be done in the future to control the site plans once they leave the Board? It appears that this particular parcel is a continuing problem and different individuals negotiate it and different individuals get changes to it and it is a little frustrating.

Solicitor Frank stated that this issue had been thoroughly discussed by his office and Engineer Guzzi office. He said that in he felt that this was something that could be in the realm of a field change that Engineer Guzzi could accommodate under his general authority. If it is the sense of the Board that this exceeds what you would like to see as the kind of thing that happens as a field change then he should know about that so that he can adjust his sensibilities with regard to that.

Chairperson Hamilton-Wood stated that her personal feeling is that on applications where there are applicants who don't want to follow the direction that the Board gives and do not want to abide by their site plan and then come back in asking for field changes, she is not happy to grant the field changes especially when the people who come in asking for the field changes are not the people who came before the Board with the site plan.

Solicitor Frank said that Chairperson Hamilton-Wood is accumulating a lot of issues into this one matter. If you look at the nature of the request, the request was that there were some trees and stumps that don't look very good and we would like to put something else up in their stead that might be better. Chairperson Hamilton-Wood said that she believes that the ordinance says that if you are going to remove a 12" caliper tree you have to replace it with three 3" caliper trees and that is not what was done. She stated that she has a problem because they have made such a drastic deviation from what the ordinance requires.

Engineer Guzzi stated that this section was referred to the administration. He stated that he didn't feel that he had the authority to make a field change on this so he referred it back to the administration. Engineer Guzzi said that typically if there was no site plan and the parish wanted to remove those trees they would have to go into the Shade Tree Commission so that is how he directed this. He said that the township is trying to cooperate to get control of this situation but he said he is not sure that this is working.

Solicitor Frank said that asking for a modification of this nature, which maybe was inappropriate, but was something that in the ordinary course would have been referred to the Shade Tree Commission not to this Board. Chairperson Hamilton-Wood said that what was done rises to the level of what the Board would have required a variance for. She said she didn't know how big these trees were but she didn't think that any of them were 3" caliper. Engineer Guzzi stated that these were larger trees and the ordinance is very specific as to the size of the replacement trees. Chairperson Hamilton-Wood stated that it is not where you replace 1 for 1. If the tree was bigger you replace 2 for 1. She stated that this is where she is having difficulty.

Solicitor Frank asked if Chairperson Hamilton-Wood was bothered by the procedure or the substance of the result? Chairperson Hamilton-Wood answered that it was the

substance of the result. It seems like if this is the process that is going to take place and the result that will come of it the job of the Board is futile because any applicant that came in and wanted to remove trees would have had to follow the ordinance or give a reason why not. She said that she thinks they are missing 14 trees that would be required by ordinance.

Planner Petrongolo stated that the application itself received a waiver with regard to the number of trees on site. That was done because of all the existing trees on site.

Chairperson Hamilton-Wood said that if a Board makes a decision and then 2 months later the applicant comes in to request a field change which in her opinion is a variance that they should have asked for at the Planning Board. She said that Planner Petrongolo's statement that we gave a waiver based on existing trees on the lot doesn't make her any happier. Solicitor Frank stated that the waiver wasn't given based on these existing trees.

Engineer Guzzi stated that the destroyed tree has to be replaced with one replacement tree for each 12" or part thereof. Chairperson Hamilton-Wood stated that the Board has no idea how big the trees were. Planner Petrongolo said that this could have been discussed at the meeting. The applicant could have said that the quality of the trees was poor due to inappropriate pruning due to electric wires and they wanted to remove them.

Planner Petrongolo asked if the parish provided the information regarding the size of the trees. Engineer Guzzi said that they may have provided that information to Tom Sahol and Mr. Sahol visited the site. Engineer Guzzi said that his recollection is that they weren't enormous trees, but they were at least 12".

Engineer Guzzi stated that the ordinance calls for 1 tree for every 12" and those trees should be 2 1/2". The applicant is providing 3" to 3 1/2" caliper.

Chairperson Hamilton-Wood asked how the other Board Members feel about this matter.

Member Woolston stated that he was disturbed and thinks that this applicant is being given preferential treatment. He stated that any developer would have been stopped.

Member Lutz stated that he has an issue from a safety point from what has been installed. Solicitor Frank stated that this is a separate issue. Member Lutz stated that it is a separate issue but it does all roll back into one. Chairperson Hamilton-Wood stated that it appears that there is a fear to enforce anything with this particular project.

Member Lutz stated that no one is against this project but the Board goes through this process and if any private developer came in things would be put in line the way they should be. He said that it makes you think that you dedicate your time on this Board, which we all like doing because we have an interest in the town, and you don't have the support at the next level. He said that this is bothersome to him.

Member Lutz stated that he voted to approve the site plan because he thinks it is the right thing to do, but he thinks that there should be some respect to the Board and to the town to go through the proper procedures and do things in the correct manner. He said that he doesn't have a problem with this issue being handled as a field change, but he agrees with Chairperson Hamilton-Wood that this should have been on the site plan.

Solicitor Frank stated that he and Engineer Guzzi looked at the matter and asked whether it required any new variances or waivers. Engineer Guzzi stated that this was handled as if the applicant had never come before the Board. If the parish was not the subject of a site plan approval and wanted to remove these trees they would have to go to Shade Tree Commission to get approval for the removal and the replacement trees would be recommended. Solicitor Frank said that this is because they are street trees instead of trees on the site. These trees are in the right of way.

Engineer Guzzi stated that it is not unusual for the Shade Tree Commission to issue a report, but in this case no trees were being removed as part of the site plan. Chairperson Hamilton-Wood stated that the letter does not say the Shade Tree Commission it says a representative of the Shade Tree Commission. She said that there was no Shade Tree Commission meeting where this was discussed. Solicitor Frank stated that this is within the township administration's right. Chairperson Hamilton-Wood stated that she agrees with Member Lutz. Why do we bother? The Board struggles over these issues just to see them overturned.

Motion of Berry, seconded by Ryan to open the meeting to public comment. Motion unanimously approved by all members present. Seeing no one wishing to speak motion was made by Berry to close the public portion and to adjourn the meeting at 8:25 p.m. Motion unanimously approved by all members present.

David Woolston, Secretary

DW/ne